**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.683 OF 2007**

Bharati Bhimsen Kulkarni ...Applicant
V/s.
Vanita Mecanzi & Ors. ...Respondents

Mr.V.V. Purwant, Advocate, for the Applicant.

Mr.Sandeep Salunkhe, Advocate, for Respondent Nos.2 to 6.

Mr.P.R. Arjunwadkar, Advocate, for Respondent Nos.1 to 7.

Mr.S.R. Shinde, APP, for Respondent No.10-State.

**CORAM : A.P. DESHPANDE, J.**

**DATED : 21ST NOVEMBER, 2007.**

**P.C.:**

1. The applicant filed a complaint against the respondents which came to be registered as R.C.C. No.466 of 2006 in the Court of Judicial Magistrate First Class, Solapur. The Magistrate passed an order under Section 156(3) of the Code of Criminal Procedure directing the investigation.

2. Apprehending, arrest at the hands of police, the respondents moved an application before the Additional Sessions Judge, Solapur seeking anticipatory bail. The said application was rejected

by relying upon a judgment of the High Court wherein it is held that if in a complaint case Magistrate passes an order under Section 156(3) and the police registeres F.I.R., then before arresting the accused, the police shall approach the Magistrate and take his permission in that regard unless in a given case the police apprehends that this step will frustrate the proceedings, the investigation, and that the accused is dangerous and is likely to abscond.

3. It is thus clear that anticipatory bail was denied as the Sessions Judge was of the opinion that when Magistrate directs an investigation under Section 156(3), police can’t arrest the accused without permission of the Magistrate.

4. At a later point of time, the investigating officer moved an application for arrest of the accused and the rejection of the said application has prompted the applicant/complainant to file the present application. The Judicial Magistate First Class, Solapur, after considering the facts and circumstances of the case, has refused the permission after recording the finding that the investigating officer has not made out a case for seeking arrest of the accused and hence rejected the application.

5. The order passed by the Judicial Magistrate First Class, Solapur which is impugned in this application does not suffer from any illegality or impropriety warranting an interference in exercise of jurisdiction under Section 482 of the Cr.P.C. Hence the application is rejected.

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